



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 23, 2022

By ECF

Hon. John P. Cronan
United States District Court
500 Pearl Street
New York, NY 10007

Re: United States v. Surinder Cheema et al., 22 Cr. 618 (JPC)

Dear Judge Cronan:

The Government writes with an update regarding the above-captioned case and a request for a stay of a decision setting conditions for the release of Surinder Cheema. On December 21, 2022, Michel Habib, Bhupinder Virk, and Surinder Cheema arrived in the Southern District of New York. They were presented yesterday before the Hon. Gabriel W. Gorenstein. Two of the defendants—Habib and Virk—consented to their continued detention, without prejudice to future bail applications, which the Government anticipates the defendants will likely make at the pretrial conference that this Court has scheduled for January 5, 2022.

Cheema made a bail application before Judge Gorenstein, and the Government sought his continued detention on the grounds that he is a risk of flight. The Government principally argued that Cheema is a risk of flight due to the serious charges against him, the strength of the evidence, and the strong ties that Cheema has to a foreign country. Specifically, Cheema is a Canadian citizen and long-time Canadian resident, with close family and business interests in Canada, who has only been in the United States since September 2022 on a tourist visa with his family. Cheema argued that bail was appropriate, relying principally on his desire to remain and find work in the United States, the presence of supportive relatives and friends in the United States, and the willingness of those friends and family to put up a significant bail package. Judge Gorenstein stated that the case was a close call, but ordered that Cheema could be released to home detention upon meeting a number of conditions, including finding eight financially responsible persons to co-sign a \$2 million personal recognizance bond; submitting \$100,000 cash deposit with the Court; and having three individuals put up property as surety.

The Government intends to appeal the decision setting conditions for Cheema's release and seek his continued detention. The Government respectfully requests a stay of the bail decision until January 5, so the parties can argue the detention issue during the pretrial conference. Cheema is working to expeditiously meet the bail conditions, and the Government is facilitating that process. But due to the holidays, the Government anticipates it is unlikely Cheema will be able to obtain confessions of judgment on the three properties before the new year at the earliest, so a stay until January 5 will not substantially extend the period of detention. The Government also

understands that Cheema's attorney, Michael Kraut, Esq., is out of the country and will arrive in New York beginning January 4, so an earlier in person proceeding is not feasible.¹

The Government has discussed its intention to seek a stay with Cheema's attorney, who opposes the application. The defense has conveyed the following:

The defense's position is that Mr. Cheema was aware of a Federal investigation in March or April 2022 when Federal agents at the airport asked to look at his phone at a port of entry. Since then he has continued to avail himself to the jurisdiction of the Government, and continued to come to the United States. He has substantial family and friends living in the United States, and his family is living in the Central District of California, Mr. Cheema had been in training for a job, and later ownership, in a solar panel company in the Los Angeles area and was in the process of trying to obtain a work visa. He was arrested at the location he was training. When Judge Gorenstein indicated it was a close call, he referenced that if Mr. Cheema was a US citizen, it would be an easy call to release him, and the fact that his home country is just to the North and a friendly ally to the United States. Along with other conditions, Mr. Cheema will be ordered to give up his passport which will be with Counsel and brought to the hearing on January 5, 2023.


Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by: /s/ Thomas Burnett
Thomas S. Burnett
Assistant United States Attorney
(212) 637-1064

The Government's request for a two-week stay of Judge Gorenstein's bail decision is denied, particularly in light of its representation that Mr. Cheema is unlikely to immediately satisfy his bail conditions. If it wishes, the Government remains free to appeal Judge Gorenstein's decision at any point between today and the pretrial conference scheduled for January 5, 2023.

SO ORDERED
Date: December 23, 2022
New York, New York


JOHN P. CRONAN
United States District Judge

¹ The attorney for the Government will be out of the District until Wednesday, December 28.